

CLARENCE MAXWELL

JANUARY 31, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MILLER of New York, from the Committee on the Judiciary submitted the following

R E P O R T

[To accompany H. R. 4759]

The Committee on the Judiciary, to whom was referred the bill (H. R. 4759) for the relief of Clarence Maxwell, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to reimburse Clarence Maxwell, of Sterling, Ill., the sum of \$318.37 which is the amount of a judgment and costs assessed against Mr. Maxwell in a court action which arose out of an accident which occurred when he was operating a United States mail truck.

STATEMENT OF FACTS

Mr. Maxwell was acting in his capacity as a special delivery messenger and driving a post office truck on January 30, 1951 when he was involved in an accident with a car driven by Mr. Earl Siedel, Jr. Mr. Siedel's car struck the front of the post office truck a glancing blow at the time that the truck was emerging from an alley in Sterling, Ill. The facts of this accident are more fully outlined in the letters of Mr. Maxwell's attorney which are appended to this report.

Mr. Siedel did not bring an action under the Federal Tort Claims Act, but elected to bring an action against Mr. Maxwell personally in a State court. Mr. Siedel prevailed in that action, and secured a judgment in the amount of \$301.67 and \$16.70 in costs for a total amount of \$318.37.

The committee agrees with the favorable recommendation of the Post Office contained in its report to the committee which is appended

to this report. It would be grossly unfair to require Mr. Maxwell to bear this loss personally since he was engaged in his work as a post office employee at the time of the accident. Therefore, the committee recommends the favorable consideration of the bill.

The committee finds that substantial legal services have been rendered in connection with this bill, and therefore the bill contains the customary attorney's fee proviso.

The report of the Post Office Department is as follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington 25, D. C., August 2, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 4759, a bill for the relief of Clarence Maxwell.

Mr. Maxwell, a special delivery messenger, was involved in an accident at Sterling, Ill., on January 30, 1951, with a car belonging to Earl Siedel, Jr. Messenger Maxwell was emerging from an alley into a street when he collided with Mr. Siedel's passing automobile. Mr. Siedel did not file a claim under the Federal Tort Claims Act but brought suit against the messenger in a State court, recovering a judgment for \$300. Presumably the amount set forth in the bill (\$318.37) covers that judgment and court costs.

While the messenger was found negligent it would be unfair to require him to bear this loss personally since Congress has provided for the relief of claimants sustaining damages in this manner. Therefore, the Department recommends that favorable consideration be accorded the bill for the relief of Messenger Maxwell.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to the committee.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

LAW OFFICES
KENNETH W. MILLER,
Sterling, Ill., November 29, 1953.

HON. LEO ALLEN,
Galena, Ill.

DEAR SIR: I am addressing this letter to you at Galena with the hope that you are home at the present time. The purpose of this letter is to ask your help on behalf of a post office employee working out of the Sterling post office. The employee is Mr. Clarence Maxwell, who is employed in the capacity of delivering parcel post and mail by truck in the city of Sterling.

On January 30, 1951, while driving a post office truck he was involved in an accident while in the course of his employment.

The driver of the other automobile involved in the collision was Mr. Earl Seidel. Mr. Seidel started suit in justice of the peace court and secured a judgment which was appealed to the circuit court of Whiteside County where the judgment was confirmed and entered on October 17, 1952. The amount of the judgment was \$301.67 and the costs were \$16.70, making a total of \$318.37 which was paid by Mr. Maxwell on December 24, 1952. The judgment has been satisfied.

I understand that the Post Office Department furnished legal counsel on the hearings but that they will not assume the amount of the damages on the grounds that it is a personal liability. I also understand that under cases of this type, the employee may be reimbursed by an act of Congress. I am told that there is a 3-year limitation involved, but I do not know whether or not this period starts to run from the date of the accident or the date of the judgment.

Mr. Maxwell has asked me to contact you for your assistance. I will be glad to supply any other information which you may need.

With king personal regards I remain,
Sincerely yours,

KENNETH W. MILLER.

LAW OFFICES

KENNETH W. MILLER

STERLING, ILL., December 28, 1953.

In re Clarence Maxwell, Sterling, Ill.

Hon. LEO E. ALLEN,

*House of Representatives,**Washington, D. C.*

DEAR MR. ALLEN: Thank you for your letter of December 21, 1953, pertaining to the accident involving Mr. Clarence Maxwell, a post office employee.

I am enclosing herewith a satisfaction of judgment showing payment of \$301.67 and cost of suit. The costs of suit were \$16.70, making a total of \$318.37.

Mr. Clarence Maxwell has been employed for many years by the Post Office Department at Sterling, Ill., and in recent years has been employed for the purpose of delivering parcel posts in Sterling. On January 30, 1951, while driving a parcel post truck, carrying the Post Office Department No. 2807, he was involved in an accident while in the course of his employment. The accident occurred at about 7:55 p. m. on January 30, 1951, at the intersection of East Third Street and an alley running north and south between Fourth and Fifth Avenue in the city of Sterling. Mr. Maxwell was engaged in delivering parcel post and was emerging from the alley onto East Third Street. His truck was facing north. Mr. Earl Seidel, who lives at 407 Avenue L, Sterling, Ill., was proceeding east on East Third Street. The temperature was about 16° below zero and the pavement was reasonably clear. Mr. Maxwell, on entering East Third Street, came to a full stop. The automobile driven by Mr. Seidel struck the truck a glancing blow on the front bumper. There was no material damage to the truck, but the right side of the Seidel automobile was damaged to the extent of \$301.67. Mr. Maxwell stated that the Seidel automobile traveled a distance of 133 feet before he stopped. Mr. Seidel admitted that he was in a hurry to get his boy to school. Mr. Maxwell is of the firm belief that Mr. Seidel did not see the truck at all.

Mr. Seidel started suit in justice of the peace court of Louis V. Oltmanns, of Sterling. The case was then appealed to the circuit court of Whiteside County, where judgment was entered in favor of Mr. Seidel against Mr. Maxwell on October 17, 1952. Mr. Seidel's insurance company had their attorney handle the matter for him. Mr. Maxwell did not hire his own attorney. I understand, however, that the Post Office Department furnished legal counsel at the hearings.

Mr. Maxwell had public-liability insurance on his own automobile; however, at that time the post-office employees did not have public-liability insurance on the post office trucks.

I hope that I have given you sufficient facts to justify introducing a bill for reimbursement on behalf of Mr. Maxwell. I will be glad to supply any additional facts which you may need.

With kind personal regards, I remain.

Sincerely yours,

KENNETH W. MILLER.

SATISFACTION OF JUDGMENT

STATE OF ILLINOIS,

County of Whiteside, ss:

In the circuit court of said county

General No. 51L92

EARL SEIDEL, PLAINTIFF V. CLARENCE MAXWELL, DEFENDANT

Whereas judgment was rendered for the plaintiff and against the defendant in the above-entitled cause on the 17th day of October, A. D. 1952, for the sum of \$301.67, and also for costs of said suit; and

Whereas the said judgment, together with all accrued interest and costs thereon has been fully paid and satisfied by the above-named defendant;

Now, therefore, the undersigned plaintiff, in consideration of the said payment, do hereby acknowledge full satisfaction and payment of the above judgment, and

interest and costs thereon, and hereby forever satisfy, release and discharge the same, together with any lien created thereby against any and all property of the above-named defendant, or his heirs and assigns.

Dated this 24th day of December A. D. 1952.

EARL SEIDEL, *Plaintiff*.

STATE OF ILLINOIS,
County of Lee, ss.:

I, Mary Ellen Gerbers, a notary public in and for said county, in the State aforesaid, do hereby certify that Earl Seidel personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered the said instrument, as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 24th day of December A. D. 1952.

[SEAL]

MARY ELLEN GERBERS,
Notary Public.

